

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RAUL VALENZUELA CERVANTES,

Plaintiff,

v.

PORTER, et al.,

Defendants.

No. 2:22-cv-1961 AC P

ORDER AND FINDINGS AND
RECOMMENDATIONS

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On November 1, 2022, plaintiff filed an incomplete application to proceed in forma pauperis. ECF No. 2. As a result, on November 15, 2022, plaintiff was ordered to file a completed in forma pauperis affidavit and a certified copy of his prison trust account statement. ECF No. 4. He was given thirty days to do so, and he was cautioned that failure to comply with the court's order would result in a recommendation that this action be dismissed. *Id.* at 2.

On November 28, 2022, plaintiff filed a second in forma pauperis application. ECF No. 8. It, too, was incomplete. Consequently, on December 21, 2022, plaintiff was ordered for a second time to file the requisite documents, and he was given an additional thirty days to do so. ECF No. 9.

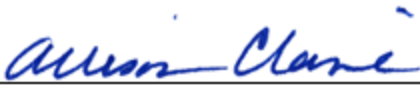
1 More than thirty days have passed, and plaintiff has not filed an in forma pauperis
2 application. In addition, the late-filed prisoner trust fund account statement is not signed by the
3 appropriate authority. See ECF No. 11 at 3. For these reasons, the undersigned will recommend
4 that this matter be dismissed for failure to file a completed in forma pauperis application or, in the
5 alternative, to pay the filing fee.

6 Accordingly, IT IS HEREBY ORDERED that the Clerk of Court shall randomly assign a
7 District Judge to this case.

8 IT IS FURTHER RECOMMENDED that this action be DISMISSED without prejudice.

9 These findings and recommendations are submitted to the United States District Judge
10 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
11 after being served with these findings and recommendations, plaintiff may file written objections
12 with the court. Such a document should be captioned "Objections to Magistrate Judge's Findings
13 and Recommendations." Plaintiff is advised that failure to file objections within the specified
14 time may waive the right to appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153
15 (9th Cir. 1991).

16 DATED: March 8, 2023

17 
18 ALLISON CLAIRE
19 UNITED STATES MAGISTRATE JUDGE
20
21
22
23
24
25
26
27
28